

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Richard P., by and for **R.P.**, and Denise L.,)
by and for **K.L.**,)

Plaintiffs)

v.)

SCHOOL DISTRICT OF THE CITY)
OF ERIE, PENNSYLVANIA; JANET)
WOODS, Individually and in her Capacity)
as Principal of Strong Vincent High)
School; and **LINDA L. CAPPABIANCA**,)
Individually and in her Capacity as)
Assistant Principal of Strong Vincent High)
School,)

Defendants)

Civil Action No. 03-390 Erie

JURY TRIAL DEMANDED

DEFENDANTS' MOTION IN LIMINE

Defendants The School District of the City of Erie, Pennsylvania and Linda L. Cappabianca respectfully submit the following Defendants' Motion in Limine.

1. The jury trial of this action commences on January 23, 2006 in this Court. In contemplation of that trial defendants hereby bring to the attention of the Court various issues that defendants belief should be resolved by the Court prior to the commencement of trial.

2. Defendants respectfully submit as follows:

A. Plaintiffs, their counsel and their witnesses, including their expert witness, Dr. Schachner, should be precluded from asserting at the trial of this action that any employee of defendant School District had a specific duty to report any sexual activity between plaintiffs and other students to any public agency, since no such duty existed.

- B. Plaintiffs, their counsel, and their witnesses, including their expert witness, Dr. Schachner, should be precluded from stating, arguing and testifying at the trial of this action in regard to alleged acts of sexual harassment that occurred prior to the sexual assaults of December 19, 2001, since evidence of those alleged acts of sexual harassment is not relevant to any fact of consequence to the resolution of the issues that are the subject of the trial of this action.
- C. Plaintiffs, their counsel and their witnesses, including their expert witness, Dr. Schachner, should be precluded from asserting at the trial of this action that the placement of plaintiffs at Sarah Reed Children's Center in January 2002 was improper because the Court dismissed such claim as asserted under Title IX and plaintiffs withdrew their motion to amend their complaint to assert such claim under IDEA and the Rehabilitation Act.

WHEREFORE, defendants The School District of the City of Erie, Pennsylvania and Linda L. Cappabianca respectfully request that the Court issue an order precluding plaintiffs Richard P., by and for R.P., and Denise L., by and for K.L., their counsel and their witnesses from asserting, stating, arguing and testifying at the trial of this action as set forth above.

/s/ James T. Marnen

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Attorney for Defendants,
The School District of the City of Erie,
Pennsylvania and Linda L. Cappabianca

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Richard P., by and for **RACHEL P.**, and
Denise L., by and for **KRISTINA L.**,

Plaintiffs

V.

SCHOOL DISTRICT OF THE CITY OF ERIE, PENNSYLVANIA; JANET WOODS, Individually and in her Capacity as Principal of Strong Vincent High School; and **LINDA L. CAPPABIANCA**, Individually and in her Capacity as Assistant Principal of Strong Vincent High School,

Defendants

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 13th day of January, 2006, a copy of the within document was served on all counsel of record and unrepresented parties in accordance with the applicable rules of court.

/s/ James T. Marnen

James T. Marnen